BOMBAY ACT No. LXXIX OF 1948.[1]

[THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.]

[*11th January 1949*]

Amended by Bom. 17 of 1949.
" " " 53 of 1949.
" " " 59 of 1949.
" " " 8 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 9 of 1951.
" " " 28 of 1952.
" " " 58 of 1954.

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and operation.

1. (*1*) This Act may be called the Bombay Shops and Establishments Act, 1948.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall in the first instance come into force in the local areas specified in Schedule I.

(*4*) The [3][State] Government shall by notification published in the *Official Gazette* direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(*5*) The [3][State] Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained, in any trade, craft or employment in any establishment;

(*2*) "Child" means a person who has not completed his twelfth year;

(*3*) "Closed" means not open for the service of any customer or open to any business connected with the establishment;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 499.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid.*

(*4*) "Commercial establishment" means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on [1][, whether for purposes of gain or not,] any business, trade or profession or work in connection with or incidental or ancillary thereto but does not include a factory, shop, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; XXI of 1860.

(*5*) "Day" means the period of twenty-four hours beginning at midnight: Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

(*6*) "Employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice but does not include a member of the employer's family;

(*7*) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(*8*) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the [2][State] Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(*9*) "Factory" means any premises which is a factory within the meaning of [3][clause (*m*) of section 2 of the Factories Act, 1948, or which is deemed to be a factory under section 85 of the said Act]; LXIII of 1948.

(*10*) "Goods" includes all materials, commodities and articles;

(*11*) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;

(*12*) "Inspector" means an Inspector appointed under section 48;

(*13*) "Leave" means leave provided for in Chapter VII of this Act;

(*14*) "Local area" means any area or combination of areas to which this Act applies;

[4][(*15*) "Local authority" means a municipal corporation constituted under the Bombay Municipal Corporation Act or the Bombay Provincial Municipal Corporations Act, 1949, a municipality constituted under the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or a local board constituted under the Bombay Local Boards Act, 1923;] Bom. III of 1888. Bom. LIX of 1949. Bom. III of 1901. Bom. XVIII of 1925. Bom. VI of 1923.

(*16*) "Manager" means a person declared to be a manager under section 7;

(*17*) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;

(*18*) "Opened" means opened for the service of any customer;

(*19*) "Period of work" means the time during which an employee is at the disposal of the employer;

(*20*) "Prescribed" means prescribed by rules made under this Act;

(*21*) "Prescribed authority" means the authority prescribed under the rule made under this Act;

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[1] These words were inserted by Bom. 28 of 1952, s. 2(*1*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This portion was substituted for the original, by Bom. 17 of 1949, s. 2.
[4] Clause (15) was substituted for the original, by Bom. 28 of 1952, s. 2(*2*).

CHAPTER VII.

LEAVE WITH PAY AND PAYMENT OF WAGES.

Leave.

35. (*1*) Every employee who has worked for not less than two hundred and seventy days during a year, shall be allowed, during the subsequent year, leave, consecutive or otherwise, for a period of not less than fourteen days, inclusive of the day or days during the period of such leave, on which, a shop or commercial establishment remains closed under sub-section (*1*) of section 18 or he is entitled to a holiday under sub-section (*1*) of section 24 or section 31 :

Provided that such leave may be accumulated up to a maximum period of twenty-eight days.

[1][(*1A*) If the services of an employee who has been in the employment for not less than a year and who has worked for ninety days or more, but for less than two hundred and seventy days during any subsequent year, are terminated in such year in the circumstances specified in sub-section (*2*), he shall, in addition to the leave under sub-section (*1*), become entitled to such leave in such year for the number of days which bears to fourteen days, the same proportion, as the number of days for which he worked bears to two hundred and seventy days.]

(*2*) If an employee entitled to leave under sub-section (*1*) [2][or (*1A*)] is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(*3*) If an employee entitled to leave under sub-section (*1*) [2][or (*1A*)] is refused the leave, he may give intimation to the Inspector or any other officer authorized in this behalf by the [3][State] Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

Pay during leave.

36. Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

Payment when to be made.

37. An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

IV of 1936.

Application and amendment of the Payment of Wages Act.

38. (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936, herein referred to as " the said Act ", the [3][State] Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (*2*) the said Act [4][shall, in such local areas as may be specified in the notification apply] to all or any class of establishments or to all or any class of employees to which or whom this Act for the time being applies.

(*2*) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (*1*), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

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[1] Sub-section (*1A*) was inserted by Bom. 28 of 1952, s. 13 (*1*).
[2] This portion was inserted, *ibid.*, s. 13(*2*).
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] These words were substituted for the words " shall apply " by Bom. 58 of 1954, s. 2, Schedule.

CHAPTER VIII.

HEALTH AND SAFETY.

Cleanliness.

39. The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorising.

Ventilation.

40. The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed.

Lighting.

41. (*1*) The premises of every establishment shall be sufficiently lighted during all working hours.

(*2*) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

Precautions against fire.

42. In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed.

First Aid.

[1][**42A.** In every establishment wherein a manufacturing process as defined in clause (*k*) of section 2 of the Factories Act, 1948, is carried on, there shall be provided and maintained a first aid box containing such articles as may be prescribed.] LXIII of 1948.

CHAPTER IX.

ENFORCEMENT AND INSPECTION.

Powers and duties of local authorities.

43. Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the [2][State] Government as may be prescribed :

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by its Chief Executive Officer or any other officer subordinate to it :

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the [2][State] Government to enforce the said provisions.

Power to make by-laws.

44. A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the [2][State] Government, make by-laws not inconsistent with the provisions of the Act, or the rules or orders made by the [2][State] Government thereunder, for the purpose of carrying out the provisions of this Act.

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[1] Section 42A was inserted by Bom. 28 of 1952, s. 14.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

The Bombay Animal Preservation Act, 1948 (Bom. LXXXI of 1948) at pages 2889-2894 has been repealed by the Bombay Animal Preservation Act, 1954 (Bom. LXXII of 1954), section 16.